

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

POU VATTHONGXAY

Applicant for Registered Nurse License

Respondent

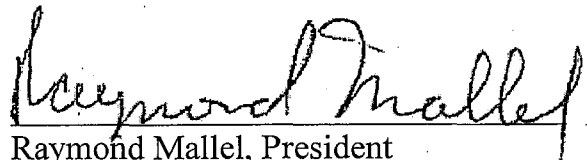
Case No. 2012 – 158

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on August 30, 2012.

IT IS SO ORDERED July 31, 2012.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
Deputy Attorney General
4 State Bar No. 209545
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-8311
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

13 **POU VATTHONGXAY**

14 **238 S. Arroyo Parkway Unit 408,**
15 **Pasadena, CA 91105**

16 Respondent.

Case No. 2012-158

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
22 Registered Nursing. She brought this action solely in her official capacity and is represented in
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Anahita S.
24 Crawford, Deputy Attorney General.

25 2. Respondent Pou Vatthongxay (Respondent) is represented in this proceeding by
26 attorney Jeffrey S. Kravitz, whose address is: 2310 J Street, Suite A, Sacramento, California
27 95816.

28 //

3. On or about April 15, 2011, Respondent filed an application dated March 24, 2011, with the Board of Registered Nursing to obtain a Registered Nurse License.

JURISDICTION

4. Statement of Issues No. 2012-158 was filed before the Board of Registered Nursing (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on September 26, 2011. A copy of Statement of Issues No. 2012-158 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 2012-158. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 2012-158.

9. Respondent agrees that her Registered Nurse License is subject to denial and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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IT IS HEREBY ORDERED

The application of Respondent Pou Vatthongxay for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of three (3) years on the following conditions:

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

1 3. **Report in Person.** Respondent, during the period of probation, shall
2 appear in person at interviews/meetings as directed by the Board or its designated representatives.

3 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
4 or practice as a registered nurse outside of California shall not apply toward a reduction of this
5 probation time period. Respondent's probation is tolled, if and when she resides outside of
6 California. Respondent must provide written notice to the Board within 15 days of any change of
7 residency or practice outside the state, and within 30 days prior to re-establishing residency or
8 returning to practice in this state.

9 Respondent shall provide a list of all states and territories where she has ever been licensed
10 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
11 information regarding the status of each license and any changes in such license status during the
12 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
13 license during the term of probation.

14 5. **Submit Written Reports.** Respondent, during the period of probation,
15 shall submit or cause to be submitted such written reports/declarations and verification of actions
16 under penalty of perjury, as required by the Board. These reports/declarations shall contain
17 statements relative to Respondent's compliance with all the conditions of the Board's Probation
18 Program. Respondent shall immediately execute all release of information forms as may be
19 required by the Board or its representatives.

20 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
21 state and territory in which she has a registered nurse license.

22 6. **Function as a Registered Nurse.** Respondent, during the period of
23 probation, shall engage in the practice of registered nursing in California for a minimum of 24
24 hours per week for 6 consecutive months or as determined by the Board.

25 For purposes of compliance with the section, "engage in the practice of registered nursing"
26 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
27 non-direct patient care position that requires licensure as a registered nurse.

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1 The Board may require that advanced practice nurses engage in advanced practice nursing
2 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

3 If Respondent has not complied with this condition during the probationary term, and
4 Respondent has presented sufficient documentation of her good faith efforts to comply with this
5 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
6 extension of Respondent's probation period up to one year without further hearing in order to
7 comply with this condition. During the one year extension, all original conditions of probation
8 shall apply.

9 7. **Employment Approval and Reporting Requirements.** Respondent shall
10 obtain prior approval from the Board before commencing or continuing any employment, paid or
11 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
12 performance evaluations and other employment related reports as a registered nurse upon request
13 of the Board.

14 Respondent shall provide a copy of this Decision to her employer and immediate
15 supervisors prior to commencement of any nursing or other health care related employment.

16 In addition to the above, Respondent shall notify the Board in writing within seventy-two
17 (72) hours after she obtains any nursing or other health care related employment. Respondent
18 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
19 separated, regardless of cause, from any nursing, or other health care related employment with a
20 full explanation of the circumstances surrounding the termination or separation.

21 8. **Supervision.** Respondent shall obtain prior approval from the Board
22 regarding Respondent's level of supervision and/or collaboration before commencing or
23 continuing any employment as a registered nurse, or education and training that includes patient
24 care.

25 Respondent shall practice only under the direct supervision of a registered nurse in good
26 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
27 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
28 approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

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1 Respondent shall work only on a regularly assigned, identified and predetermined
2 worksite(s) and shall not work in a float capacity.

3 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
4 request documentation to determine whether there should be restrictions on the hours of work.

5 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
6 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
7 than six months prior to the end of her probationary term.

8 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
9 Respondent shall submit to the Board the original transcripts or certificates of completion for the
10 above required course(s). The Board shall return the original documents to Respondent after
11 photocopying them for its records.

12 11. **Violation of Probation.** If Respondent violates the conditions of her
13 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside
14 the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

15 If during the period of probation, an accusation or petition to revoke probation has been
16 filed against Respondent's license or the Attorney General's Office has been requested to prepare
17 an accusation or petition to revoke probation against Respondent's license, the probationary
18 period shall automatically be extended and shall not expire until the accusation or petition has
19 been acted upon by the Board.

20 12. **License Surrender.** During Respondent's term of probation, if she ceases
21 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
22 probation, Respondent may surrender her license to the Board. The Board reserves the right to
23 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
24 take any other action deemed appropriate and reasonable under the circumstances, without further
25 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no
26 longer be subject to the conditions of probation.

27 Surrender of Respondent's license shall be considered a disciplinary action and shall
28 become a part of Respondent's license history with the Board. A registered nurse whose license

1 has been surrendered may petition the Board for reinstatement no sooner than the following
2 minimum periods from the effective date of the disciplinary decision:

3 (1) Two years for reinstatement of a license that was surrendered for any reason other
4 than a mental or physical illness; or


5 (2) One year for a license surrendered for a mental or physical illness.

6 13. **Therapy or Counseling Program.** Respondent, at her expense, shall
7 participate in an on-going counseling program until such time as the Board releases her from this
8 requirement and only upon the recommendation of the counselor. Written progress reports from
9 the counselor will be required at various intervals.

10 **ACCEPTANCE**

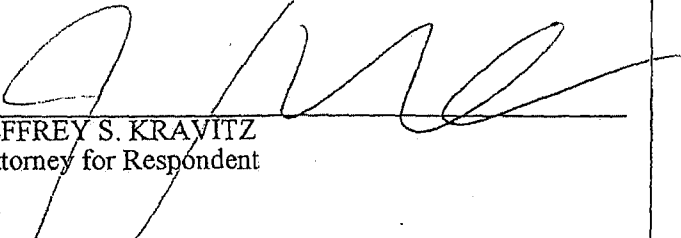
11 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
12 discussed it with my attorney, Jeffrey S. Kravitz. I understand the stipulation and the effect it will
13 have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary
14 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
15 of the Board of Registered Nursing.

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18 DATED: 11-16-2011


POU VATTHONGXAY
Respondent

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21 I have read and fully discussed with Respondent Pou Vatthongxay the terms and conditions
22 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
23 its form and content.

24
25
26 DATED: 11-17-2011


JEFFREY S. KRAVITZ
Attorney for Respondent

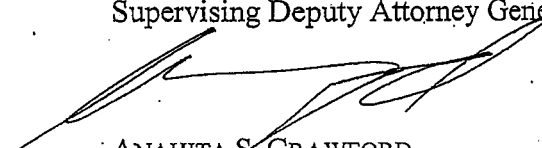
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 11.17.11

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General


ANAHITA S. CRAWFORD
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 2012-158

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
Deputy Attorney General
4 State Bar No. 209545
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-8311
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No.

2012-158

13 **POU VATTHONGXAY**
238 S. Arroyo Parkway Unit 408
Pasadena, CA 91105

Respondent.

14 **STATEMENT OF ISSUES**

15
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
19 in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
20 Department of Consumer Affairs.

21 2. On or about March 24, 2011, the Board received an application for a registered nurse
22 license from Pou Vattthongxay ("Respondent"). On or about April 15, 2011, Respondent certified
23 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
24 application. The Board denied the application on May 11, 2011.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2736 provides, in pertinent part, that
27 the Board may deny a license when it finds that the applicant has committed any acts constituting
28 grounds for denial of licensure under section 480 of that Code.

1 4. Code section 480 states, in pertinent part:

2 (a) A board may deny a license regulated by this code on the grounds
3 that the applicant has one of the following:

4 (1) Been convicted of a crime. A conviction within the meaning of this
5 section means a plea or verdict of guilty or a conviction following a plea of nolo
6 contendere. Any action which a board is permitted to take following the
7 establishment of a conviction may be taken when the time for appeal has elapsed, or
8 the judgment of conviction has been affirmed on appeal, or when an order granting
9 probation is made suspending the imposition of sentence, irrespective of a subsequent
10 order under the provisions of Section 1203.4 of the Penal Code.

11

12 (3)(A) Done any act that if done by a licentiate of the business or
13 profession in question, would be grounds for suspension or revocation of license.

14 (B) The board may deny a license pursuant to this subdivision only if the
15 crime or act is substantially related to the qualifications, functions, or duties of the
16 business or profession for which application is made . . .

17 5. Code section 2761 states, in pertinent part:

18 The board may take disciplinary action against a certified or licensed
19 nurse or deny an application for a certificate or license for any of the following:

20

21 (f) Conviction of a felony or of any offense substantially related to the
22 qualifications, functions, and duties of a registered nurse, in which event the record of
23 the conviction shall be conclusive evidence thereof . . .

24 6. Code section 2765 states:

25 A plea or verdict of guilty or a conviction following a plea of nolo
26 contendere made to a charge substantially related to the qualifications, functions and
27 duties of a registered nurse is deemed to be a conviction within the meaning of this
28 article. The board may order the license or certificate suspended or revoked, or may
decline to issue a license or certificate, when the time for appeal has elapsed, or the
judgment of conviction has been affirmed on appeal or when an order granting
probation is made suspending the imposition of sentence, irrespective of a subsequent
order under the provisions of Section 1203.4 of the Penal Code allowing such person
to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
the verdict of guilty, or dismissing the accusation, information or indictment.

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1 CAUSE FOR DENIAL

2 (Criminal Conviction)


3 7. Respondent's application for a registered nurse license is subject to denial pursuant to
4 Code sections 2736, 2761, subdivision (f), 480, subdivision (a)(1), and 480, subdivision
5 (a)(3)(A), in that on or about January 22, 2009, in the criminal proceeding titled *U.S. v. Pou*
6 *Vatthongxay* (USDC, East. Dist. of Louisiana, 2009, Case No. 08-24-L), Respondent pled guilty
7 to violating 18 USC section 1509 (obstruction of a court order), a crime substantially related to
8 the qualifications, functions, and duties of a registered nurse. The circumstances of the crime are
9 as follows: Respondent assisted her former boyfriend, Charles Neuman ("Neuman"), in selling
10 counterfeit goods, including shoes and purses. In or about August 2008, Respondent was indicted
11 by the Grand Jury for, among other things, conspiring with Neuman and others to intentionally
12 traffic counterfeit goods and knowingly use counterfeit marks on those goods. On or about
13 October 18, 2007, federal law enforcement officers went to Neuman's apartment located in River
14 Ridge, Louisiana, to execute a federal search warrant for that location. Respondent was present at
15 the apartment when the officers arrived and refused to let them in by slamming and locking the
16 door. Respondent also hid Neuman's firearm in the fireplace.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Registered Nursing issue a decision:

- 20 1. Denying the application of Pou Vatthongxay for a registered nurse license;
21 2. Taking such other and further action as deemed necessary and proper.

22
23 DATED: September 16, 2011

for 

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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